

REG-94-003 DRUG TAX STAMPS

003.01 Drug tax stamps shall be sold at all Department of Revenue offices for face value in denominations authorized by the Tax Commissioner.

003.02 When required; restrictions on use.

003.02A Drug stamps must be affixed to a container holding threshold amounts of marijuana or controlled substances immediately upon possession of the drug(s) in the State of Nebraska or immediately upon the expiration of previously issued stamps.

003.02A(1) Drug stamps may be purchased by a taxpayer in anticipation of the possession of taxable drugs, but the date of expiration for the stamps shall be calculated from the day of purchase, regardless of the day the drug(s) were actually possessed.

003.02B Drug stamps may be purchased by any person of any age and may be purchased for purposes other than for affixing to containers holding taxable drugs.

003.03 How purchased.

003.03A No person will be required to provide the Department any identifying information in connection with a purchase of drug tax stamps.

003.03A(1) The Department shall not release to any outside person or agency information concerning any purchaser or purchase. However, the Department may periodically release statistical information that informs the public or other agencies of the Drug Tax Program's progress.

003.03B Drug tax stamps may be purchased only with a money order, cashier's check, or cash. However, the Department will not accept cash payments in amounts equal to or greater than \$10,000.

003.03C Drug tax stamps may be purchased by mail using any approved method of payment except cash.

003.03C(1) If the taxpayer chooses to purchase drug tax stamps by mail, the taxpayer assumes the risk of non-delivery or tardy delivery by the postal service. Mail-order purchasers are responsible for ordering stamps sufficiently in advance of need so that the stamps will arrive at or before the time of drug possession. In determining the probable arrival time of mail-order stamps, taxpayers should allow the Department three working days following receipt of the order to process the order and deposit a response with the postal service.

003.03C(1)(a) The Department shall mail all drug tax stamps via first class mail with a certificate of mailing. Failure of the stamps to arrive attributable to postal service error shall not be a legitimate excuse for drug tax stamps not being affixed to a container of taxable drugs.

003.03C(2) If an assessee who has purchased drug tax stamps through the mail can prove that the only reason the stamps were not affixed to a container of drugs was that the Department unreasonably delayed delivering the stamps, the assessee shall be entitled to elimination of the assessment, interest and abatement of the penalty.

003.03C(2)(a) For the purposes of this section, the Department shall be presumed to have unreasonably

delayed delivery of drug stamps if it fails to send the stamps via first class mail within three working days of receiving an order. The Department may rebut this presumption by presenting evidence of the time of mailing.

003.03D Department employees will provide to any person interested in purchasing drug tax stamps a worksheet upon which the taxpayer may determine the amount of stamps he or she requires. Upon request, Department employees may explain the form and may assist the taxpayer in calculating the actual amount of tax due.

003.03E All drug tax stamps shall expire at midnight 180 days from the date of purchase.

003.03F No drug tax stamp may be reused, altered, transferred to a second container, or otherwise tampered with to avoid the purchase of another stamp.

003.04 Refunds; rate changes.

003.04A Once dated and issued, no refund will be granted on any drug tax stamp unless the refund request is based on a Department error. An error by a Department employee in assisting a taxpayer to determine the amount of tax owed shall not be cause for issuing a refund.

003.04B If the Legislature increases the tax rate for a particular drug or substance, it is the responsibility of the taxpayer to purchase additional stamps no later than the effective date of the price increase.

003.04C If the Legislature decreases the tax rate for a particular drug or substance, no refund will be issued for taxpayers who initially purchased stamps at the higher rate.

003.05 Travel or temporary residence in Nebraska; foreign stamps.

003.05A Drug stamps must be affixed to taxable drugs immediately upon crossing Nebraska state borders, without regard to the amount of time the drugs are expected to remain in the state.

003.05B Drug stamps from another state shall not be honored in Nebraska, and affixing them to a container of taxable drugs found in this State shall have no effect on the amount of tax, penalty and interest owed in Nebraska.

(Sections 77-4304(1), 77-4304(2), 77-4305, 77-4306, 77-4307, 77-4310.02(1), and 77-4315. February 2, 1992.)